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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,584	11/18/2003	Ernest L. Johnson	RA-1728	4739
2071	7590	08/29/2005		
SIEBERTH & PATTY, LLC 4703 BLUEBONNET BLVD BATON ROUGE, LA 70809			EXAMINER FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	
DATE MAILED: 08/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/715,584

Applicant(s)

JOHNSON, ERNEST L.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Newly submitted claims 14-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The product recited in claim 1 (class 4/515) could be used in a process (class 4/661) not requiring "providing" a hair washing device. Furthermore, the separate status in the art shown by the different classification could lead to divergent fields of search.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 14-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter set forth in claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended.

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The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "selected from a group consisting of" language set forth in claim 2, and "temperature controller" set forth in claim 5, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the

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descriptive portion of the specification by reference to the drawing(s).

4. Claims 12 and 13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 12 recites a neck support cover forming a seal between the neck of a user "and the basin". This subject matter is not found in the originally filed disclosure and is therefore considered to be new matter.

5. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a hood sealed by a cover, does not reasonably provide enablement for only a sealed hood. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

6. Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in

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the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites nozzle assemblies "configured for spraying liquid onto the hair of the user of the hair washing device in rotating streams". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner. The illustration in Fig. 6 does not teach one how to make a nozzle capable of producing a rotating stream. The general disclosure of a "stationary circular housing 22a" and "rotating disc 22d" (pg. 5) fails to teach one how water supplied from pipe 21 can issue as a rotating stream. No additional disclosure was found concerning this subject matter. Applicant argues at page 11 of the response "[t]he [c]laims as amended are believe (sic) to meet the requirements of the statute". However, applicant has not pointed to any evidence in support of this statement.

7. Claim 4 apparently should depend from claim 3 rather than claim 1 and will be considered as such in this Office action only.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 2, 5, 6 and 8-12, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Sakane et al.

The Sakane et al. (Sakane) reference discloses a hair washing device comprising: a basin 60; a plurality of nozzle assemblies 58,61 including rotating streams (col. 5 lns. 48-50); a hood 3 including a face cover 5 having an elastic edge (col. 2 ln. 66); a temperature controller 73; and a neck support/cover 31, as claimed.

10. Claim 7, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakane and Minami.

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Although the hood of the Sakane hair washing device is not hinged, as claimed, attention is directed to the Minami reference (Figs. 4-6) which discloses an analogous hair washing device which further includes a hood 2 that is hinged (Fig. 6). Therefore, in consideration of Minami, it would have been obvious to one of ordinary skill in the hair washing device art to hinge the Sakane hood in order to facilitate insertion of a user's head.

11. Claim 11, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakane.

The choice of neck support shape would appear an obvious choice to be made as taught by Sakane at column 9, lines 38-43.

12. Claims 12 and 13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakane and Eckelbarger.

Although the neck support of the Sakane hair washing device does not include a cover, as disclosed, attention is directed to the Eckelbarger reference which discloses an analogous hair washing device which further includes a neck support 10 having a cover (col. 7 lns. 11-22). Therefore, in consideration of Eckelbarger, it would have been obvious to one of ordinary skill in the neck support art to associate a cover with the Sakane neck support in order to construct same of two different materials.



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13. Applicant's arguments with respect to claims 1 and 9 have been considered but are moot in view of the new ground(s) of rejection.

14. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

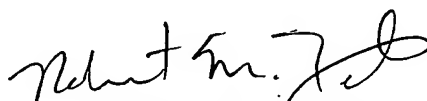
15. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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16. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", with a stylized flourish at the end.

Robert M. Fetsuga  
Primary Examiner  
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